

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Review of the Commission's)
Rules and Practices)
Affecting the Conversion)
to Digital Television)

MM Docket No. ~~99-039~~

00-39/

To: The Commission

**JOINT COMMENTS OF COSTA DE ORO TELEVISION, INC., RANCHO
PALOS VERDES BROADCASTERS, INC. AND THE BOARD OF
TRUSTEES OF THE COAST COMMUNITY COLLEGE DISTRICT**

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Dated: May 17, 2000

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SUMMARY

In this rulemaking proceeding, the Commission embarks on its first biennial examination of the progress in transitioning the over-the-air broadcast service from an analog to a digital-based service. While many stations have been constructed, the vast majority of broadcasters have not built their DTV facilities and what little DTV programming there exists is viewed by only a small portion of the population equipped to receive such programming.

Given the state of DTV few operating problems have arisen. Yet, the Commission is using this proceeding to take up issues that it, as opposed to the broadcaster or viewer communities, perceives as problems. Accordingly, the Joint Commenters in this proceeding approach the rulemaking by asking that since few matters have arisen of concern, why is the Commission seeking to adopt changes that may well be disruptive to the conversion process?

In particular, the Joint Commenters are concerned as to why the Commission believes that it must replace the policies it has adopted and urged upon broadcasters with new and more restrictive rules. In regard to the replication of existing NTSC signals, the Commission has not imposed such a requirement and, instead, has encouraged broadcasters to use site locations that involve collocations and other mechanisms that result in limiting interference problems and allow broadcasters to locate at new multi-user towers that improve stations' coverage in their markets. The Joint Commenters have expended time and funds in such an effort in the Los Angeles area that they are certain will achieve better broadcast service to the public. A replication requirement, unless drawn with care as Joint Commenters propose, could well result in putting an end to this and other projects and limiting the benefits the public will receive.

Likewise, switching from a threshold coverage requirement to a principal community

coverage requirement, at a substantially higher level than ever proposed by the Commission, also will place in jeopardy the beneficial efforts of the Joint Commenters and others. The Joint Commenters desire to continue to serve their communities of license and the viewers who have long received their analog signals, but they also submit that this can be adequately accomplished through the type of replication requirement they propose herein and not by a community coverage requirement. The Joint Commenters see no evidence of a need for anything more than the existing threshold requirement and believe that the adverse effect on joint development projects such as theirs will more than offset any benefits from the changes the Commission proposes.

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Costa de Oro Television, Inc. ("Costa"), the licensee of Station KJLA(TV), Ventura, California; Rancho Palos Verdes Broadcasters, Inc. ("RPVB"), the permittee of Station KRPA(TV), Rancho Palos Verdes, California; and the Board of Trustees of the Coast Community College District ("District"), the licensee of Non-Commercial Educational Station KOCE-TV, Huntington Beach, California (collectively, the "Joint Commenters"), by their attorneys, hereby submit their comments to the Commission's *Notice of Proposed Rule Making* ("NPRM") in the instant proceeding. In support thereof, Joint Commenters state as follows.

INTRODUCTION

1. In this proceeding the Commission undertakes its first biennial review of its progress in converting the nation's television broadcast system from one based on analog technology to another based on digital television. This review has been mandated by the Commission in its *Fifth Report and Order* in MM Docket No. 87-268, 12 FCC Rcd 12809 (1997). The Joint Commenters agree that a periodic review of the conversion process, with its many and varied effects on the television broadcasting industry, serves to ensure that information and concerns that

arise during the transition process are addressed. However, the Joint Commenters are troubled that the Commission, after commencing the conversion process, is now attempting by this *NPRM* not to address problems that have arisen but to deal with matters that have not been identified as having a detrimental impact on the conversion process. As a result, the solutions the Commission proposes, may well become, instead, impediments to the conversion process. Accordingly, the Joint Commenters are hereby urging the Commission to make sure that before it adopts a solution for perceived problems that it make certain that the solution is really necessary.

2. In making the transition to DTV, the television community has been confronted by a series of procedural changes that alter the traditional broadcast landscape. Instead of channels ranging from 2 to 69, television broadcasters are now being restricted to a core of channels 2-51. In order to accommodate the pairing of DTV and NTSC facilities until 2006 and the “repacking” of television stations into the core, available channels have been nearly eliminated and the DTV Table of Allotments has been drawn with little flexibility.

3. The Joint Commenters are particularly cognizant of this, owing to their location in the coastal California region. The coastal California region is one of three regions in the country where spectrum congestion has meant that the Commission had to resort to extraordinary means in order to ensure the transition to DTV. *Memorandum Opinion and Order on Reconsideration of Sixth Report and Order*, 12 FCC Rcd 7418 (1998). Moreover, as the Commission has recognized by its creation of a DTV Tower Strike Force,¹ tower availability also is an issue for DTV stations. Again, this is especially so in the Los Angeles area where the combined forces of unusual topography (consisting of valleys surrounded by hills), urban sprawl and land use

¹ *NPRM at para. 6.*

restrictions have limited transmitter sites to a few antenna farms.

4. In the case of Joint Commenters, KJLA has an NTSC allotment of channel 57 and a DTV allotment of 49. KOCE-TV has an immediately adjacent allotments, with the NTSC allotment of channel 50 and the DTV allotment of channel 48. As for KRPA, its DTV allotment is adjacent to the KOCE-TV NTSC allotment. In effect, each of these stations, as they seek to operate their NTSC stations and convert to DTV, must take into consideration the site choices made by the others and act accordingly.

5. Instead of engaging in separate and isolated efforts resulting in possible mutually exclusive applications,² the Joint Commenters determined that it was in their best interests, as well as the best interests of the public, to engage in a joint effort to improve their operations and to establish their DTV service at the earliest possible time. In keeping with the Commission's encouragement of common transmission operations, they have been working jointly for some time to bring about a common transmission facility at the Mt Wilson antenna farm³ in Pasadena that serves the greater Los Angeles market. Their efforts have resulted in the development of new tower capacity on Mt Wilson and applications have been filed for their DTV operations with maximized facilities and very low interference between themselves and to other stations. In addition, there are a number of other stations that may be able to locate at the same site as a result of their efforts, and it is planned to move several of their NTSC operations to the common site.

6. This action by the Joint Commenters is consistent with the Commission's own stated

² Joint Commenters will address the Commission's concerns as to mutually exclusive applications later in this pleading.

³ Mt. Wilson and its sister peak, Mt. Harvard, are the sites for 14 of the 19 television stations in the Los Angeles market.

opinion as to how parties overall, and especially in the Los Angeles area, should be responding to the DTV conversion process. Acting just six months ago, the Commission, in *KRCA License Corp.*, FCC 99-388, released December 14, 1999, agreed to a waiver of its short-spacing requirements in order to encourage the location of three other Los Angeles market to the same Mt. Wilson/Mt. Harvard site.⁴ In so doing, the Commission recognized that “short-spacing waivers will facilitate the construction of the Applicant’s DTV facilities in one of the markets that present the greatest technological challenges to the DTV transition.” *Id.* at para. 18. Moreover, the Commission recognized that the collocation of facilities, as the parties in *KRCA* and here propose, presented substantial benefits in the form of cost savings, operating efficiencies and the rapid build-out of DTV stations. *Id.* at para. 19. It reasoned:

We recognize that the viability of DTV by non-network affiliated television stations in the Los Angeles market requires that these stations invest millions of dollars to convert to DTV and, as we have previously stated, we believe that our rules must be made to strengthen and not hamper the possibilities for DTV’s success in this market....Permitting collocation of their NTSC and DTV facilities by waiving our separation requirements will help the Applicants overcome the significant obstacles and costs they face in converting to DTV and will serve the public interest by ensuring that DTV transition is successful...and their proposals will reap substantial public interest benefits with no concomitant cost.

7. The Joint Commenters applauded the Commission for the consideration of and concern for independent stations in the Los Angeles market and their need to use such innovative tactics as collocation in order to serve the public interest. In the case of the Joint Commenters, they have pursued their own Mt. Wilson proposal in reliance on the *KRCA License* decision. On May 1,

⁴ Interestingly, just as in this case, the three stations were not licensed to Los Angeles itself but to communities surrounding Los Angeles that are contained within this No. 2 market in the country. These stations were KRCA(TV) licensed to Riverside, California, KSCI(TV), licensed to Long Beach, California, and KDOC(TV), Anaheim, California.

2000, they submitted to the Commission amendments to their DTV applications requesting maximized facilities in response to the provisions of the Community Broadcasters Protection Act of 1999.⁵ Further, KOCE-TV has begun the preparation of its application to relocate its NTSC facility to the Mt. Wilson site.

8. Considering this, the Joint Commenters are disturbed by the failure of the Commission, in drafting the *NPRM*, to take into consideration the policies and results so well articulated in the recent *KRCA License* decision. Clearly, as the television community invests its time, effort and substantial sums of money in the DTV process, it expects that the Commission will speak with a single, consistent voice. That voice has heretofore been that the speedy implementation of the DTV transition was paramount and that in achieving this result the Commission would not to be bound by strict rules of replication and station separations. Indeed, *KRCA License* tells us that administrative flexibility, achieved through case-by-case examination of applications and the goals that the applications sought to achieve would be the watchword. For the Commission to reverse itself and now, during the midst of the conversion process, to apply new and strict constructions of rules that previously were flexible would not only be misguided but would hinder the results that the Commission so obviously seeks. Before the Commission reverts to such a policy, it should give long and hard consideration, especially since licensees should not be faced with uncertainty in developing their conversion plans.

⁵ Section 5008 of Pub. L. No. 106-113, 112 Stat. 1501, Appendix 1, codified as 47 U.S.C.. 336(f).

**SHOULD THERE BE
FULL REPLICATION OF NTSC COVERAGE**

9. In dealing with the matter of replication of the existing NTSC service contour, the Commission, in the *Sixth Report and Order* in MM Docket No. 87-268, 12 FCC Rcd 14588 (1997), established replication as one of the Commission's goals. Based on this, the Commission now requests comment on whether it should adopt policies that require DTV licensees to replicate strictly their NTSC coverage, either in the form of the areas or populations covered or by a DTV principal community service requirement. The Joint Commenters urge the Commission to reject any such result.

10. The Commission's reliance on the goal of replication as expressed in the *Sixth Report and Order* stands at odds with other, and more recent, pronouncements of the Commission. In its *Sixth Report Reconsideration*, the Commission made it clear that replication alone had not been the motivating force for the DTV Table. *Id.* at 7425. More importantly, licensees were advised that collocation of facilities in the same market was an objective that was being promoted. *Id.* In order to accomplish this, licensees were encouraged to separate their NTSC and DTV transmitter sites. These policies reflected the reality of the transition process and were reasonably relied upon by Joint Commenters and others.

11. For the Commission to retreat from this view of the DTV world, there must be some rational basis. The *NPRM* offers little reason for such a withdrawal. The arguments that are presented simply do not measure up when tested. First, the Commission raises a concern that "some licensees [may] locate their proposed DTV facilities at a substantial distance from their NTSC facilities and their communities of license." *NPRM* at para. 17. Of course, there is no

present prohibition on where NTSC stations locate their transmitters so long as the community of license is served by a city-grade signal. See 47 C.F.R. 73.685(a). Why should there be one for DTV? A separated DTV transmitter site may or may not result in more coverage of the community,.

12. What appears to motivate the Commission's concern is that "fringe" stations or site-restricted stations might advantage themselves by site relocations.⁶ The *NPRM* reflects the single, speculative concern that the licensee will maintain operations on a paired channel that does not exactly replicate its former NTSC contour and former viewers would lose service. No where is it mentioned whether the new DTV coverage will increase over the former NTSC coverage by such proposals, providing service to greater areas and populations. In fact, each of the proposals made by the Joint Commenters will provide greater coverage. This is certainly a factor that should be considered and was simply ignored by the Commission.

13. The Joint Commenters do not, by these comments, evidence any lack of interest in continuing to serve their communities of license, a subject they will address below. However, it should only be the community of license coverage that the Commission should consider. There is no statutory obligation on the part of licensees to preserve viewership as they make changes. Any modification of facilities will alter the areas and populations, though rarely do such changes result in a diminution of coverage.

14. Taking this into consideration, Joint Commenters submit that a strict replication

⁶ The Commission also argues that such movements might pose a problem under Section 307(b) of the Communications Act as a *de facto* reallocation. This is a novel idea as the Commission, more than 15 years ago, dispatched this very same doctrine to a well-deserved grave. See *The Suburban Community Policy, the Berwick Doctrine and the De Facto Reallocation Policy*, 93 FCC 2d 436 (1983), *recon. denied*, 56 RR 2d 835 (1984).

requirement offers little benefit to the public interest. In return for restricting the licensee's ability to collocate and avoid interference problems, the Commission seeks to preserve coverage that was never predicated on anything more than where the broadcaster could find a tower site. In the view of the Joint Commenters, the ability to locate freely transmitter sites presents the substantial benefits of collocation, common sites that minimize environmental degradation, minimizing interference among NTSC and DTV stations⁷, and increasing coverage. These goals far outweigh any negative consequences resulting from some viewers not being able to receive the DTV signal. Station licensees having expended considerable sums on conversion being able to include more of their core of their television market in their service area.

15. Accordingly, it is the position of the Joint Commenters, that replication should not be required and the replication process should be driven by marketplace considerations. Nevertheless, should the Commission decide that some sort of date certain is required, then the date should be derived from one of several categories depending upon each station's particular circumstances. For those stations that have not yet taken steps that are irreversible without financial loss and that have not filed applications to move sites based upon the Commission's earlier decisions, then a date such as the end of the transition, whenever that occurs in a station's market, would be appropriate. For those stations that have made a significant financial commitment that is irreversible without financial loss, the end of the depreciation period on that investment or the end of the transition in a station's market, whichever is later, would be

⁷ For example, if the KRPA-DT, KJLA-DT and KOCE-TV are all located at Mt. Wilson, objectionable interference to KOCE-TV will be minimized and KOCE-TV will be able to bring its non-commercial programming, including many classroom and other educational programs, to a greater number of viewers in the Los Angeles market.

appropriate.

16. There are some stations that have depended on the Commission's earlier decisions and have done the engineering work to move their facilities, as evidenced by their applications already having been filed. For those that applied by some specific date, (perhaps the date of release of the instant *NPRM*) the requirement to fully replicate should become effective when they move from the site for which they have already applied, assuming that they qualify for that site under the Commission's existing Rules. By the Commission's own words, "Most of the DTV applications that have been filed and granted thus far are for locations at or near their current NTSC antenna sites." *NPRM* at para. 19. The Commission has also noted that "several licensees have sought authority to move their DTV station to a more central location in their market or toward a larger market." *Id.* at para. 19. Thus, based on the Commission's own analysis, the problem is relatively small, and a replication requirement going forward for those that have not yet applied for such a move and under the terms proposed herein will keep it so.

17. For some broadcasters, the problems of achieving replication can be great. This can occur when stations are in poor financial condition or when adequate tower space is not readily available, as, for instance, in some well-known, difficult zoning situations. For those stations, the greatest penalty is the loss of their audience that results from their own failure to reach it. Additional remedies in such cases may prove to be counterproductive.

18. Should the Commission decide that a requirement for full replication is necessary, then that term must be defined in a technical sense. There are several ways in which it can be defined, for example: based upon area or population, based upon signal contours or terrain-sensitive propagation models, and/or based upon absolute values or proportional coverage. To the extent

possible, the methods employed should be similar to those already used in the studies for determining coverage, interference, and the like.

19. In all of the studies of coverage and interference since the beginning of the work on the Table of Allotments, it has been population that has been determinative of service. The physical area covered by a station has served only as a limiting factor for population studies, never as the determining element. That practice should be continued in the determination of full replication. Contours, such as the NTSC Grade B contour and the DTV Noise Limited contour, should be used only to decide what areas are appropriate to study. The population reached within those contours should be the deciding factor in whether full replication is achieved.

20. The Commission has raised the full replication issue with respect to two particular circumstances with which it is concerned. The first is the case of stations that operate with lesser facilities (principally lower ERP and/or lower antenna height) than were included as reference values in the Table of Allotments. The second is the case of stations that move their transmitters significant distances from their reference locations (generally their NTSC transmitter sites). Different definitions may be required in these two cases, but they can be related to the same criteria.

21. It should be recognized that the FCC, in establishing the concept of *de minimis* interference limits, gave to other stations in the aggregate the right to reduce the service in terms of population of a particular station. Other stations together may reduce such service to the extent of ten percent without the subject station having any right to object. The reduction is allowed to permit those other stations to improve their own service areas, for engineering convenience, or for any other reason. Why should other stations have the right to reduce a

station's service for their own reasons and the subject station itself not have similar rights? Thus the Joint Commenters' proposal in response to the Commission's question about what constitutes full replication is that it is the reference population in Appendix B to the Second Reconsideration Order⁸ less ten percent.

22. Application of the proposed value would differ somewhat in the two cases posed. Where a station proposed to operate with lesser facilities but at essentially the reference site assumed in Appendix B, the station would be considered to have achieved full replication when it was capable of reaching a stated percentage percent of the reference population defined in Appendix B. Joint Commenters suggest that this stated percentage be set at no greater than 90 percent of the reference population, which represents a high level of population replication. When a station achieves this level of service, it would be treated for interference analysis purposes as though it were using its reference facilities. Any reduction of its service as a result of interference from other stations might reduce its service further. The total reduction of service could be as high as 20 percent in the extreme case in which the station potentially reached 90 percent of its reference service population and other stations contributed to a total of 10 additional percent of service reduction through interference.

23. Where a station proposes to operate from a significantly different location than its reference facilities, it would be required to reach 90 percent of the actual population served by its paired NTSC station. How that value is determined would depend upon a decision between the use of contours or the use of a terrain-sensitive model for the calculations; both methods will be

⁸ Appendix B of the *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders* in MM Docket 87-268, 14 FCC Rcd 1348 (1998) ("Second Reconsideration Order").

described in detail. The propagation model used for all other interference and service analyses associated with DTV is the Longley-Rice model, and its use is recommended for this application as well, should the Commission decide not to use the contour approach.

24. In the case of the contour method, two contours would be calculated. The Grade B contour of the NTSC facility would be reduced by the effect of the dipole factor and called the NTSC Noise Limited contour in keeping with the terminology of OET 69. (The population within this contour is the NTSC reference population used in studies of interference to NTSC stations.) The Noise Limited contour of the proposed DTV facility would also be reduced by the dipole factor. The population within the NTSC Noise Limited contour would be calculated. The population within the Noise Limited contour of the proposed DTV facility that was also within the NTSC Noise Limited contour would similarly be calculated, i.e. the population within the overlap area of the two contours. The overlap population would have to be at least 90 percent of the NTSC Noise Limited population in order for full replication to be considered achieved. In this case, interference would not be considered.

25. Should the Commission decide to use the propagation model approach, the process would be similar to the contour method except that the populations involved would be calculated using the methods of OET 69 and interference would be considered. In this instance, the population within the NTSC Noise Limited contour (Grade B reduced by dipole factor) that is reached by the NTSC station without interference would be calculated using the Longley-Rice method according to OET 69. Similarly, the population within the NTSC Noise Limited contour reached from the proposed DTV facility without interference would be calculated using the Longley-Rice method according to OET 69. The population reached within the NTSC Noise

Limited contour from the proposed DTV facility without interference would have to be at least 90 percent of the population reached within the same contour from the NTSC facility without interference in order for full replication to be considered achieved.

26. Using either of the methods described, the population that a station would reach from a proposed DTV facility at a different site from its NTSC facility would have to include 90 percent of those receiving its NTSC signal. This is essentially identical to the result in terms of population served as under the combination of the Commission's allotment plan and the *de minimis* interference rules. It assures that the Commission's concerns about significant populations being left unserved after the DTV transition would be completely addressed. Yet it offers DTV broadcasters the opportunity to use engineering creatively to meet limitations in tower space availability or to improve their overall service. The replication analysis techniques proposed have been tested and found to be no more difficult to implement than any of the other procedures involved in the DTV license application process, such as those prescribed in OET 69.

27. The Joint Commenters urge that the only consequence of not achieving replication should be the loss of protection to the portions of the replicated service area not served by the facilities actually constructed for such time as they are not served. Thus for stations that achieve less than full replication, unless and until such time as they achieve full replication, only the areas they actually serve should be protected from additional interference from other stations seeking to increase their facilities. When a station that did not achieve full replication later seeks to increase its facilities, it should be able to do so, so long as it protects facilities that may have been approved that do not protect its replication facilities. From then on, it should be protected to the extent of the facilities it constructs. If it eventually is able to build full replication facilities, as

defined above, then it should receive protection to its reference allotment facilities.

28. The approach recommended follows the long-standing Commission policy of protecting licensed or applied-for facilities from later applications. Similarly, those later applications should be protected from others filed at an even later date. Such a rolling cutoff mechanism should be put into place immediately following the completion of authorization of the initial batch of applications currently on file. The method for resolving any mutual exclusivity among applications in that initial batch is beyond the scope of these comments.

SHOULD THERE BE A DTV PRINCIPAL COMMUNITY COVERAGE REQUIREMENT

29. The Joint Commenters have always supported the concept of serving their communities of license with a 41 dBu DTV signal.⁹ This is the signal strength that DTV licensees are presently required, by Section 73.625(a) to place over their communities of license. Joint Commenters submit that this should be all that is required of any DTV licensee and that the Commission has offered no justification, that under present standards parties such as the Joint Commenters won't have an adequate signal received in their communities of license, for altering the standard in any respect.

30. In approaching this issue, one is hard pressed to determine why a need exists for a more stringent principal community coverage standard. The differences between an analog and digital signal point out why such a standard need not be adopted. In the case of an analog signal there exists a drop in signal quality as the signal's reach extends to its limits. Thus, by use of signal strength measurements, one can determine the "quality" of a signal and the Commission has

⁹ In the original KJLA-DT application, a small portion of Ventura would not receive such a signal due to terrain obstructions.

been able by rule to provide what is a “city grade” and Grade B signal. Of course, even these measurement standards are predictive only and depending on whether contours or the Longley-Rice propagation model¹⁰ the determination of signal strength will vary.

31. The reception of a DTV signal has entirely different characteristics. A DTV signal is either available or not. In the event a television set cannot receive the DTV signal or the signal is not acceptable the screen will either freeze or turn blue. If this does not occur, the signal is of the same quality at a site directly adjacent to the transmitter or at the farthest reach where the signal is available. Thus, signal strength alone does not bear on this at all.

32. Presumably, the Commission does not wish to leave anything to chance. If the predicted result is to increase from a 50/50 standard to a 90% one, then the standard would have to be altered. In the case of the Joint Commenters, this would mean that their communities of license would be required to receive a 57 dBu signal rather than a 41 dBu signal. In turn, these parties would have to scrap their plans and attempt to find new transmitter sites, if such even exists in the crowded Los Angeles market.

33. It is obvious from this discussion that the adoption of a signal strength test runs counter to the policies adopted to date in the DTV arena. Instead of providing licensees with flexibility to adapt to DTV, we will be reverting to strict standards of site location. While this would be acceptable in an environment where the Table of Allotments gave parties wide latitude and potential tower sites were routinely available, this is not the case in the new world of DTV. If licensees have to deal with these realities as they make expensive construction decisions, they should not be subject to city coverage requirements that severely limit site location choices.

¹⁰ See OET Bulletin 69 (July 2, 1997)

34. All of this is made more plain when one looks at the matter of DTV service. As previously discussed, if the requisite Section 73.625 signal is present that should be the test. This is the standard that the Commission has set and that parties, including Joint Commenters, have relied on in planning for the DTV transition. There is no overriding need to reverse this test in midstream and force many broadcasters to alter their plans. Instead, the Commission should continue to adhere to the Section 73.625 standard and allow licensees to serve their communities by complying with the suggested 90% replication requirement. No greater obligation should now be imposed on stations.

HOW SHOULD MUTUALLY EXCLUSIVE APPLICATIONS BE TREATED

35. Joint Commenters feel that they have a unique perspective on the question of mutual exclusivity resulting from DTV expansion and maximization. Having faced these issues in crafting their collocation arrangements, the Joint Commenters have also worked with each other on the question of possible interference. They have agreed to work out this matter and to adopt procedures that will protect each other.

36. Taking this into consideration, the Joint Commenters agree that the Commission should establish a mutual exclusivity standard. In turn, the parties should be given the opportunity to work out engineering solutions among themselves. Only when, and if, the parties are unable to do so should the Commission seek resolution by a competitive bidding process.

37. In regard to competitive bidding, the Joint Commenters urge that in instances where such a result occurs that a two-prong process occur. First, any party should be entitled to the protections afforded by the Table of Allotments and replication of their existing signals. For areas

that are beyond these protections, the competing parties would be required to bid for the right to provide service in the area. Joint Commenters expect that the possibility of an auction will motivate many broadcasters to seek out engineering solutions that avoid adding even more costs to the DTV conversion process.¹¹

CONCLUSION

38. It is obvious from the *NPRM* that the Commission's concerns in regard to the DTV conversion process have not been drawn from complaints by any party or problems with the conversion process. Rather, the issues dealing with replication and community coverage all arise because parties, facing the expensive conversion process, are seeking out locations and entering into arrangements that will provide optimum service to the public. These actions have been encouraged by the Commission as it urged parties to act in a speedy manner that minimized their costs and sought to avoid interference.

39. Instead of maintaining this beneficial policy, the Commission has broached changes that will result in a reversal of this and have a direct impact on the Joint Commenters and many others. After having followed the Commission's lead, these parties should not be required to alter their results. The Commission should not adopt any replication or city coverage rules to that

¹¹ In this regard, Joint Commenters request that the Commission give consideration to what has occurred in the low-power television area. The Commission has given mutually-exclusive low-power television applicants the opportunity to work out mutual exclusivity in order to avoid auctions of spectrum and in many instances this has resulted in auctions being avoided. One added benefit in this process has been the active participation of the Commission staff in identifying options for solving issues and Joint Commenters urge such active participation in DTV mutual exclusivity problems as well.

effect.¹²

Respectfully submitted,

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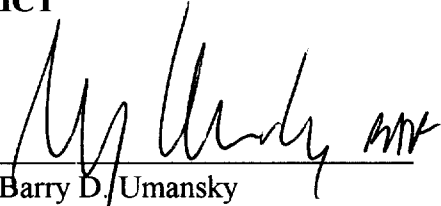
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¹² Joint Commenters also submit that any phase-in requirements are of limited value. Given the cost of constructing a new DTV transmitter site, a party is only going to be doing so once and not subjecting itself to modifications as Commission requirements change.

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